

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

(1) SCOTT BREITLING,)	
)	
Plaintiff,)	
)	
v.)	Case No. <u>CIV-18-982-SLP</u>
)	
)	
(1) FRONTIER DRILLING, LLC;)	Removed from the District Court of
)	Oklahoma County, Case No. CJ-2018-
)	5048
Defendant.)	
)	

DEFENDANT’S NOTICE OF REMOVAL

Without waiving any challenges to jurisdiction, venue, or lack of proper service, Defendant Frontier Drilling, LLC (“Defendant”), by and through their undersigned counsel, pursuant 28 U.S.C. §§ 1441 and 1446, hereby give notice of the removal of this action to the United States District Court for the Western District of Oklahoma. This Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1331. In support of this removal Defendant respectfully states as follows:

1. On September 17, 2018, Plaintiff Scott Breitling filed a Petition entitled *Scott Breitling v. Frontier Drilling, LLC* in the District Court of Oklahoma County, State of Oklahoma, Case No. CJ-2018-5048. The Petition alleges that the action is brought as an individual cause of action for “disability discrimination and retaliatory termination in violation of the Americans with Disabilities Act (“ADA”) and the Employee Retirement Income Security Act (“ERISA”).” See Exhibit 1, Petition, ¶

1.

2. Pursuant to 28 U.S.C. § 1446(a), a certified copy of the Petition filed in this action is attached hereto as Exhibit 1, a certified copy of the Return of Service is attached hereto as Exhibit 2, and a certified copy of Entry of Appearance for Colby Addison, counsel for Plaintiff is attached hereto as Exhibit 3. These attachments make up the documents filed in the District Court of Oklahoma County in this action. Pursuant to LCvR 81.2(a), a copy of the docket sheet is attached hereto as Exhibit 4.¹
3. Defendant's counsel accepted service from Plaintiff on September 20, 2018. *See* Exhibit 6. Plaintiff's counsel agreed to consider service of the Petition, Summons, and Entries of Appearances on Defendant to be September 20, 2018, for purposes of calculating deadlines. *See* Exhibit 6. This Notice of Removal is timely filed pursuant to 28 U.S.C. § 1446(b), in that it is being filed within thirty (30) days of service upon Defendant of the initial pleading in which a removable claim was asserted.²
4. Defendant may remove this action pursuant to 28 U.S.C. §§ 1441(a) and Plaintiff has asserted claims against Defendant for violation of the federal ADA and ERISA. Specifically, Plaintiff asserts a claims of discrimination based on disability and retaliation for requesting a reasonable accommodation under the ADA and

¹ Plaintiff's counsel has provided Defendant's counsel with a file stamped copy of an Entry of Appearance for Leah Roper. However, Ms. Roper's Entry of Appearance is not included on the docket sheet attached hereto as Exhibit 4. A copy of the Entry of Appearance Defendant's counsel received for Ms. Roper is attached hereto as Exhibit 5.

² Plaintiff filed a Return of Service on September 24, 2018, stating service was complete on Paracorp Incorporation on September 19, 2018. *See* Exhibit 2. This Notice of Removal is also timely filed within thirty (30) days of service on Paracorp Incorporated on or about September 19, 2018, pursuant 28 U.S.C. § 1446(b).

violations of 29 U.S.C. §1132(a)(3) of ERISA. This Court therefore has federal question subject matter jurisdiction pursuant to 28 U.S.C. § 1331.

5. The undersigned represents the Defendant and the Defendant consents to the removal of the action.
6. Written notice of the filing of this Notice of Removal, together with a copy of the Notice of Removal and supporting papers, will promptly be delivered to Plaintiff and filed with the Clerk of the District Court of Oklahoma County, State of Oklahoma, as required by 28 U.S.C. § 1446(d).
7. The Defendant will, pursuant to LCvR 7.1.1, file a Disclosure Statement Identifying Constituents of LLC or Partnership.
8. Plaintiff did not make a demand for jury trial in his Petition filed in Oklahoma County.
9. If any question arises as to the propriety of the removal of this action, the Defendant requests the opportunity to present a brief and request oral argument in support of removal.

WHEREFORE, Defendant states that this action is properly removable and respectfully requests that this action now pending before the District Court of Oklahoma County, State of Oklahoma, be removed to this Court.

DATED: October 5, 2018

Respectfully submitted,

/s/ Lauren S. Voth

Byrona J. Maule, OBA # 16159

Lauren S. Voth, OBA # 21902

Catherine L. Campbell, OBA #14689

PHILLIPS MURRAH P.C.

Corporate Tower, Thirteenth Floor

101 North Robinson

Oklahoma City, Oklahoma 73102

Telephone: 405-235-4100

Facsimile: 405-235-4133

bjmaule@phillipsmurrah.com

lsvoth@phillipsmurrah.com

clcampbell@phillipsmurrah.com

ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

I hereby certify that on October 5, 2018, I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing. Based on the records currently on file, the Clerk of Court will transmit a Notice of Electronic Filing to all counsel of record.

I further certify that on October 5, 2018, the foregoing document was served via U.S. mail on the following:

Leah M. Roper

D. Colby Addison

Laird Hammons Laird, PLLC

1332 SW 89th Street

Oklahoma City, OK 73159

Telephone: 405-703-4567

Facsimile: 405-703-4067

colby@lhllaw.com

leah@lhllaw.com

ATTORNEYS FOR PLAINTIFF

/s/ Lauren S. Voth